

BEFORE THE UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD

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In the Matter of:	:	<u>PROPOSED STIPULATION</u>
ATK Launch Systems Inc.	:	<u>AND CONSENT ORDER</u>
Bacchus Works	:	No. 0803010
UTD001705029	:	

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This proposed **STIPULATION AND CONSENT ORDER** (the Consent Order) is issued by the UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD (the Board) pursuant to the Utah Solid and Hazardous Waste Act (the Act), §19-6-101, et seq., Utah Code Annotated (1953, as amended).

**JURISDICTION**

1. The Board has jurisdiction over the subject matter of this Consent Order pursuant to §19-6-112 Utah Code Annotated (1953, as amended), and jurisdiction over ATK Launch Systems Inc., Bacchus Works. ATK Launch Systems Inc., Bacchus Works and the Board are the parties to this agreement.

**FINDINGS**

2. ATK Launch Systems Inc. (hereafter referred to as ATK) is a Delaware company licensed to do business in the state of Utah. ATK operates the Bacchus Works facility in West Valley City, Utah.
3. ATK is a "person" as defined in 19-1-103(4) of the Utah Code Annotated, and is subject to all applicable provisions of the Utah Solid and Hazardous Waste Act and the Utah Administrative Code R315 (the Rules).
4. On December 6, 2007, ATK orally notified the Executive Secretary of the Board that it had been discharging photo processing waste to a septic system. This photo processing waste consists of a developer/fixer solution and coolant/rinse wastewater. The waste developer/fixer solution is a characteristic hazardous waste for silver (D011).
5. Subsequent to the oral notification to the Executive Secretary on December 6, 2007, ATK submitted a letter to the Executive Secretary dated December 12, 2007 which detailed the history of the discharge of photo processing waste to the septic system.
6. Authorized representatives of the Board (inspectors) conducted a Compliance Evaluation Inspection (CEI) of Building 2398 and an on-site evaluation of SS-3 on January 4, 2008.
7. The Executive Secretary of the Board issued Notice of Violation and Order for Compliance No. 0801004 (the NOV/CO) on February 13, 2008, alleging violations by ATK of the Rules.
8. ATK responded to the NOV/CO in a timely manner on February 27, 2008.



9. As required by the NOV/CO, ATK submitted a closure plan and closure cost estimate for SS-3 on March 14, 2008. As also required by the NOV/CO, ATK submitted a letter on April 14, 2008 notifying the Division that its financial assurance had been increased to cover the estimated costs of closing SS-3.

### **STIPULATION AND CONSENT ORDER**

10. The parties now wish to fully resolve the NOV/CO without further administrative or judicial proceedings.
11. In full settlement of the violations alleged in the NOV/CO, ATK shall pay the sum of \$131,310.00 to the Utah Department of Environmental Quality, c/o Dennis R. Downs, Executive Secretary, Utah Solid and Hazardous Waste Control Board, Utah Department of Environmental Quality, Division of Solid and Hazardous Waste, State of Utah, P.O. Box 144880 Salt Lake City, Utah 84114-4880. This amount has been determined in accordance with the Board's Civil Penalty Policy, which considers such factors as gravity of the violation(s), good faith efforts to comply or lack of good faith, degree of willfulness or negligence, history of compliance or noncompliance, ability to pay, and other factors. Full payment shall be made within 30 days of the effective date of this Consent Order.

### **EFFECT OF CONSENT ORDER**

12. For the purpose of this Consent Order, the parties agree and stipulate to the above stated facts. The stipulations contained herein are for the purposes of settlement and shall not be considered admissions by any party and shall not be used by any person related or unrelated to this Consent Order for purposes other than determining the basis of this Consent Order. Nothing contained herein shall be deemed to constitute a waiver by the State of its right to initiate enforcement action, including civil penalties, against the ATK in the event of future non-compliance with this Consent Order, with the Act, with the Rules, or with the Permit, nor shall the State be precluded in any way from taking appropriate action should such a situation arise again at ATK. However, entry into this Consent Order shall relieve ATK of all liability for violations, which did arise or could have arisen with respect to the allegations contained in the NOV/CO.

### **EFFECTIVE DATE**

13. This Consent Order shall become effective upon execution by ATK and the Executive Secretary of the Board.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2008

ATK Launch Systems Inc.

\_\_\_\_\_

Utah Solid and Hazardous  
Waste Control Board

\_\_\_\_\_  
Dennis R. Downs  
Executive Secretary



# **PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

Company Name  
EPA ID#

ATK Launch Systems-Bacchus Works  
UTD 001705029

NOV #  
NOV date

0801004  
Feb. 13, 2008

Brad Maulding  
March 12, 2008

	1	2	3	4
violation number (from NOV)	Operating a disposal facility w/o a permit	Operating a disposal facility w/o inspection plans and rds, w/o an OR and w/o filing BR	Failure to install a GW monitoring system for land disposal unit	Operating a hazardous waste disposal facility w/o having a closure plan, closure cost estimate and associated financial assurance
violation description				
1. Gravity based penalty from matrix	\$13,000.00			
(a) Potential for harm	MAJOR			
(c) Extent of deviation	MAJOR			
2. Select an amount from the appropriate multiday matrix cell	\$520.00			
3. Multiply line 2 by number of days of violation minus 1 (or other number as appropriate) 179	\$93,080.00			
4. Add line 1 and 3	\$106,080.00			
5. Percent increase/decrease for good faith	0%			
6. Percent increase/decrease for willfulness/negligence	0%			
7. Percent increase/decrease for history of compliance/noncompliance	0%			
8. * Total lines 5 through 7	0%			
9. Multiply line 4 by line 8	\$0.00			
10. Calculate economic benefit	\$25,230.00			
11. Add lines 4, 9, and 10 for penalty amount to be inserted in the proposed Stipulation and Consent Order	\$131,310.00	\$0	\$0	\$0
			Page Total	\$131,310.00

\* Additional downward adjustments, where substantiated by reliable information, may be accounted for here



# PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER

	violation number (from NOV)	5 Disposing of a restricted HW in a land disposal unit w/o first mtg the required treatment std			
	violation description				
1.	Gravity based penalty from matrix				
	(a) Potential for harm				
	(b) Extent of deviation				
2.	Select an amount from the appropriate multiday matrix cell				
3.	Multiply line 2 by number of days of violation minus 1 (or other numbe: as appropriate)				
4.	Add line 1 and 3				
5.	Percent increase/decrease for good faith				
6.	Percent increase/decrease for willfulness/negligence				
7.	Percent increase/decrease for history of compliance/noncompliance				
8. *	Total lines 5 through 7				
9.	Multiply line 4 by line 8				
10.	Calculate economic benefit				
11.	Add lines 4, 9, and 10 for penalty amount to be inserted in the proposed Stipulation and Consent Order	\$0			
				Page Total	\$131,310.00
				Grand Total	\$131,310.00

\* Additional downward adjustments, where substantiated by reliable information, may be accounted for here.



		ATK Launch Systems-Bacchus Works	SCO #0803010 for resolution of NOV/CO #0801004		
			Penalty Calculation Narrative - March 12, 2008		
		Violation #1	Operating a disposal facility without a permit		
		Gravity Based Penalty			
	a	Potential for Harm	Major. The potential for harm to the RCRA program has been determined to be Major. The long term discharge of hazardous waste to an unpermitted unit (septic system) undermines the integrity of the RCRA program.		
	b	Extent of Deviation	Major. The extent of deviation has been determined to be Major because ATK operated a hazardous waste disposal unit for multiple years without the required permit. Amount used in the calculation is the high end of major/major.	\$13,000.00	
	c	Multiple/Multi-day	ATK disposed of hazardous waste by discharging to an unpermitted unit from 1997 to December 5, 2007. The low end of the multi-day matrix for Major/Major was selected (\$520) and multiplied by 179 (180 days - 1). The low end was selected due to the fact that while a system existed to collect the silver (disconnected by building employees, since retired), ATK employees (replacements) discovered the problem and ATK self-reported the mismanagement.	\$93,080.00	
		520	179		
				\$106,080.00	
2		Adjustment Factors (if applicable)			
	a	Good faith	Not Applicable.		0%
	b	Willfulness/Negligence	Not Applicable.		0%
	c	History of Compliance or Non-compliance	Not Applicable.		0%
	d	Ability to Pay	Not Applicable.		0%
	e	Other Unique Factors	Not Applicable.		0%
3		Economic Benefit	Transportation and Disposal of 1000 gallons of wastewater a month for 179 days/six months.	\$25,230.00	
4		Recalculation of Penalty Based on New Information	Not Applicable.		0%
			Adjustment Total	\$25,230.00	
			Page Total	\$131,310.00	



		ATK Launch Systems- Bacchus Works	SCO #0803010 for resolution of NOV/CO #0801004		
			Penalty Calculation Narrative - March 12, 2008		
		Violation #2	Operating a disposal facility without the required plans and records and without filing the required biennial reports.		
1		Gravity Based Penalty	No penalty calculated due to the following: This is an illegal unit. Had the existing filtration unit been hooked up, the wastewater discharge to the septic system would have been non-hazardous and therefore the plans, records and reports would not have been necessary. Additionally, calculation of a penalty for this violation that resulted from the single initial transgression (violation #1) may produce a total penalty that is disproportionately high. The penalty calculated for violation #1 is determined to be sufficient to deter similar future non-compliance.		
	a	Potential for Harm	Addressed under violation #1.		
	b	Extent of Deviation	Addressed under violation #1.		
	c	Multiple/Multi-day	Addressed under violation #1.		
2		Adjustment Factors (if applicable)			
	a	Good faith	Not Applicable.		0%
	b	Willfulness/Negligence	Not Applicable.		0%
	c	History of Compliance or Non-compliance	Not Applicable.		0%
	d	Ability to Pay	Not Applicable.		0%
	e	Other Unique Factors	Not Applicable.		0%
3		Economic Benefit	Addressed under violation #1.		0%
4		Recalculation of Penalty Based on New Information	Not Applicable.		0%
		Total of Adjustments			0%
			Adjustment Total	\$0	
			Page Total	\$0	



		ATK Launch Systems- Bacchus Works	SCO #0803010 for resolution of NOV/CO #0801004		
			Penalty Calculation Narrative - March 12, 2008		
		Violation #3	Failure to install a groundwater monitoring system for a land disposal unit.		
1		Gravity Based Penalty	No penalty calculated due to the following: This is an illegal unit. Had the existing filtration unit been hooked up, the wastewater discharge to the septic system would have been non-hazardous and therefore the GW monitoring system would not have been necessary. Additionally, calculation of a penalty for this violation that resulted from the single initial transgression (violation #1) may produce a total penalty that is disproportionately high. The penalty calculated for violation #1 is determined to be sufficient to deter similar future non-compliance.		
	a	Potential for Harm	Addressed under violation #1.		
	b	Extent of Deviation	Addressed under violation #1.		
	c	Multiple/Multi-day	Addressed under violation #1.		
2		Adjustment Factors (if applicable)			
	a	Good faith	Not Applicable.		0%
	b	Willfulness/Negligence	Not Applicable.		0%
	c	History of Compliance or Non-compliance	Not Applicable.		0%
	d	Ability to Pay	Not Applicable.		0%
	e	Other Unique Factors	Not Applicable.		0%
3		Economic Benefit	Addressed under violation #1.		0%
4		Recalculation of Penalty Based on New Information	Not Applicable.		0%
		Total of Adjustments			0%
			Adjustment Total	\$0	
			Page Total	\$0	



		ATK Launch Systems- Bacchus Works	SCO #0803010 for resolution of NOV/CO #0801004		
			Penalty Calculation Narrative - March 12, 2008		
		Violation #4	Operating a hazardous waste disposal unit without having a closure plan, closure cost estimate and associated financial assurance.		
1		Gravity Based Penalty	No penalty calculated due to the following: This is an illegal unit. Had the existing filtration unit been hooked up, the wastewater discharge to the septic system would have been non-hazardous and therefore the need for a closure plan, cost estimate and the associated FA would not have been necessary. Additionally, calculation of a penalty for this violation that resulted from the single initial transgression (violation #1) may produce a total penalty that is disproportionately high. The penalty calculated for violation #1 is determined to be sufficient to deter similar future non-compliance.		
	a	Potential for Harm	Addressed under violation #1.		
	b	Extent of Deviation	Addressed under violation #1.		
	c	Multiple/Multi-day	Addressed under violation #1.		
2		Adjustment Factors (if applicable)			
	a	Good faith	Not Applicable.		0%
	b	Willfulness/Negligence	Not Applicable.		0%
	c	History of Compliance or Non-compliance	Not Applicable.		0%
	d	Ability to Pay	Not Applicable.		0%
	e	Other Unique Factors	Not Applicable.		0%
3		Economic Benefit	Addressed under violation #1.		0%
4		Recalculation of Penalty Based on New Information	Not Applicable.		0%
		Total of Adjustments			0%
			Adjustment Total	\$0	
			Page Total	\$0	



		ATK Launch Systems-Bacchus Works	SCO #0803010 for resolution of NOV/CO #0801004		
			Penalty Calculation Narrative - March 12, 2008		
		Violation #5	Disposing of a restricted hazardous waste in a land disposal unit w/o first meeting the required treatment standard.		
1		Gravity Based Penalty	No penalty calculated due to the following: This is an illegal unit. Had the existing filtration unit been hooked up, the wastewater discharge to the septic system would have been non-hazardous and there would not have been a need for treating the wastewater. Additionally, calculation of a penalty for this violation that resulted from the single initial transgression (violation #1) may produce a total penalty that is disproportionately high. The penalty calculated for violation #1 is determined to be sufficient to deter similar future non-compliance.		
	a	Potential for Harm	Addressed under violation #1.		
	b	Extent of Deviation	Addressed under violation #1.		
	c	Multiple/Multi-day	Addressed under violation #1.		
2		Adjustment Factors (if applicable)			
	a	Good faith	Not Applicable.		0%
	b	Willfulness/Negligence	Not Applicable.		0%
	c	History of Compliance or Non-compliance	Not Applicable.		0%
	d	Ability to Pay	Not Applicable.		0%
	e	Other Unique Factors	Not Applicable.		0%
3		Economic Benefit	Addressed under violation #1.		0%
4		Recalculation of Penalty Based on New Information	Not Applicable.		0%
		Total of Adjustments			0%
			Adjustment Total		
			Page Total	\$0	
			Grand Total	\$131,310.00	